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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ELECTRONIC FRONTIER FOUNDATION,) NO. C 07-5278 SI
Plaintiff,)
v.)
OFFICE OF THE DIRECTOR OF NATIONAL)
INTELLIGENCE,)
Defendant.)
)
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED

TO THE COURT, DEFENDANT AND ITS COUNSEL OF RECORD:

Pursuant to Civil Local Rule 3-12, Plaintiff Electronic Frontier Foundation (“EFF”) respectfully submits this administrative motion to request that the Court consider whether two cases filed in this District should be related. The actions at issue are *Electronic Frontier*

1 *Foundation v. Office of the Director of National Intelligence*, No. 07-5278, filed October 17, 2007,
2 currently pending before Judge Illston; and *Electronic Frontier Foundation v. Office of the*
3 *Director of National Intelligence et al.*, No. 08-1023, filed February 20, 2008, currently pending
4 before Magistrate Judge Laporte. This administrative motion is made on the grounds that 1.) both
5 lawsuits involve substantially the same parties and events; and 2.) assigning both cases to the same
6 judge will decrease the likelihood of unduly burdensome duplication of labor or conflicting results.
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Local Rule 3-12(b).

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9 Pursuant to Local Rule 3-12(d)(2), EFF states that the lower-numbered action names the
10 Office of the Director of National Intelligence (“ODNI”) as the sole defendant, while the higher-
11 numbered action names ODNI and the Department of Justice as defendants. Both cases were filed
12 pursuant to the Freedom of Information Act, 5, U.S.C. § 552, and are based upon FOIA requests
13 submitted to the Office of the Director of National Intelligence (and, in the higher-numbered case,
14 the Department of Justice) seeking records related to a lobbying campaign to persuade Congress to
15 amend the Foreign Intelligence Surveillance Act (“FISA”), particularly to let telecommunications
16 companies off the hook for their role in a massive and illegal government surveillance program.
17 Both lawsuits have been filed against the backdrop of a contentious, ongoing congressional debate
18 about whether FISA should be amended to grant telecommunications carriers retroactive legal
19 immunity for their participation in the government’s unlawful surveillance efforts.

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21 In each case, EFF asked that its FOIA requests be processed in an expedited manner
22 because they concern a matter about which there is “[a]n urgency to inform the public about an
23 actual or alleged federal government activity,” and are “made by a person primarily engaged in
24 disseminating information.” Each agency purported to grant EFF’s requests for such treatment.
25 Nonetheless, in violation of the FOIA and the defendants’ own regulations, the defendants failed to
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1 process EFF's requests even within the statutory time frame (20 business days) for a standard
2 request that is *not* entitled to expedited treatment. As such, the cases involve the same legal issues
3 and causes of action: violation of the FOIA for failure to process EFF's FOIA requests within the
4 time frame provided by law.

5 Plaintiff respectfully asks the Court to determine that these cases are related pursuant to
6 Local Rule 3-12 to make it more convenient for the parties and their counsel to litigate these
7 actions, eliminate the risk of duplicative or inconsistent orders and judgments, and otherwise serve
8 the interests of judicial economy.
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12 DATED: February 21, 2008

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